

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 52 of 2005 (M/S)

1. Laxmi Sugar Mills Co. Ltd.
Iqbalpur, District Haridwar through
its Occupier Shri Manmohan Sharma
(Director)
2. Shri Bhopal Singh, General Manager,
Finance and Accounts,
Laxmi Sugar Mill Co. Ltd.
Iqbalpur, District Haridwar. Petitioners

Versus

1. Presiding Officer, Industrial Tribunal,
Uttaranchal at Haldwani,
District Nainital.
2. Iqbalpur Sugar Workers' Union Iqbalpur
through its Secretary Respondents
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Sri L.P.Naithani, Senior Advocate with Sri Navneet Kaushik, Advocate for the petitioners.

Sri D.S. Patni, Advocate for respondent no. 2.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.

Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C. J. (Oral)

Sri L.P.Naithani, Senior Advocate with Sri Navneet Kaushik,
Advocate for the petitioners.

Sri D.S. Patni, Advocate for respondent no. 2.

None for respondent No. 3.

2. The petitioners have filed this writ petition for the following reliefs:
 - “a) writ, order or direction in the nature of certiorari quashing the impugned order dated 24.01.2005 passed by respondent no. 1 by which the amendment application of the petitioner company has been rejected.

- b) A writ, order or direction in the nature of mandamus commanding the respondents to stay the proceedings of adjudication case no. 50 of 2003 till the pendency of the instant petition.
- c) Issue any other order or direction which this Hon'ble Court deems fit and proper in the circumstances of the case.

3. The petitioners are aggrieved by the dismissal of their application for amendment vide impugned order dated 24.01.2005 passed by Industrial Tribunal, Haldwani in Adjudication Case No. 50 of 2003.

4. From the impugned order, we gather that though the amendment was sought to be made in para 3 of their rejoinder statement but no such rejoinder statement was filed by the petitioners and in fact only a rejoinder affidavit was filed which was numbered as Paper No. 29-D.

5. As an affidavit cannot be amended, we do not find any infirmity in the impugned order whereby the petitioners' application for amendment was dismissed. The writ petition, therefore, is liable to be dismissed.

6. The Tribunal while dismissing the petitioners' application has observed that the objection sought to be incorporated by way of amendment can very well be raised by the petitioners during the course of arguments as the same would not require leading of any evidence.

7. We, therefore, deem it proper to observe that in spite of the dismissal of the petitioners' application for amendment and the present writ petition, it shall be open to the petitioners to raise objection at the time of arguments that the State Government of Uttaranchal had not enforced Standing Orders enacted and enforced by the State Government of Uttar Pradesh for sugar factories in Uttaranchal at the relevant time.

8. With the above observation, the writ petition stands disposed of.

9. With the above order, CLMA Nos. 4499 of 2006, 5235 of 2006 and 7279 of 2006 also stand disposed of.

10. Consequently, the interim order dated 27.01.2005 stands vacated automatically.

(Prafulla C. Pant, J.)	(Rajeev Gupta, C. J.)
01.07.2006	01.07.2006

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